

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 CRYSTAL HAYNES, a single woman,
9 MARCY JOHNSON, Executor of the
10 Estate of Michael H. Kessler,
11 individually, and on behalf of others
12 similarly situated

13 Plaintiffs,

14 v.

15 BANK OF AMERICA, NATIONAL
16 ASSOCIATION,

17 Defendant.

CASE NO. C18-5190 BHS

ORDER EXTENDING STAY

18 This matter comes before the Court on the parties' joint status report requesting
19 guidance on whether to lift the stay. Dkt. 26.

20 On June 6, 2018, the Court granted the parties' stipulated motion to stay during the
21 pendency of *John R. Bund II, et al. v. Safeguard Properties, LLC*, No. 2:16-cv-920-MJP,
22 W.D. Wash. ("*Bund*"). Dkt. 20. On October 19, 2018, Judge Pechman issued an order in
Bund decertifying the class and dismissing the case because the representative plaintiff
lacked standing to assert a claim much less represent a class. *Id.*, Dkt. 346. Judge

1 Pechman also expressed her concern that class counsel, the same counsel in this action,
2 may not adequately represent plaintiffs in *Bund* or similar cases such as this one. *Id.* On
3 November 14, 2018, the parties filed the instant joint status report requesting guidance on
4 whether this stay should be lifted and the pending motions renoted or whether the stay
5 should remain pending plaintiff's appeal in *Bund*. Dkt. 26. The Court finds that good
6 cause remains to maintain the stay for two reasons. First, like the plaintiff in *Bund*, it
7 appears that Plaintiff Crystal Haynes lacks standing to represent the class because the
8 operative facts occurred before the Washington Supreme Court issued its decision in
9 *Jordan v. Nationstar Mortgage, LLC*, 185 Wn.2d 876 (2016). *See* Dkt. 9, ¶ 5.17 ("Bank
10 of America never removed its locks from the Haynes Property, and never affirmatively
11 contacted Ms. Haynes to offer to remove its locks, even after the Jordan Decision.).

12 Second, Judge Pechman's concerns with class counsel, while not dispositive,
13 could be persuasive on the issue of appointing class counsel in this matter. It is not likely
14 that the Ninth Circuit will touch on these concerns, but a decision on the merits of the
15 appeal may shed some light on those concerns. Therefore, the Court extends the stay
16 pending the Ninth Circuit's decision in the *Bund* appeal. The parties shall file a joint
17 status report after that mandate is issued or when some other significant event occurs that
18 either party concludes necessitate a review of the stay.

